

7. The defendants deny the allegations

7. The defendants deny the allegations contained in the eleventh paragraph of plaintiffs' petition and each and every part thereof, and the defendants do not admit that the plaintiffs suffered loss and damage to the extent of \$20,000 as alleged in

Mr. Robinson (continuing) said:—The facts as stated in the pleading which no doubt the jury had fully assimilated. This case, as they would see by facts read, was a case of compensation for injuries done to the plaintiffs. It might well perhaps that he should read to the jury the remarks of an authority on the subject of injuries before going further. Speaking on the law of injuries Underhill said: Injuries were divided into criminal and civil and the latter were sub-divided into two classes—namely, *ex contractu* and *ex delicto*.

The former was such as arose out of the contract, or in the carrying out of a contract, and that the case here. The plaintiff was therefore entitled to recover damages on the course of a contract with the defendant, that the plaintiffs sustained the damage. Injuries ex delicto were such as arose from the infringement of social obligations. As he was on this subject he would also refer to the case of *Hart v. O'Connell*, where it was held that a person who thought it would save him in the future, if a person committed a tort, and rendered himself liable to an action for damages, in the course of any contract, committing some act not authorized by law or committed in violation of public policy, could do something which he ought to do, and that he was not liable for damages caused to any person substantial loss of money, bodily health or material comfort.

case both were eliminated.
His Lordship pointed out that the allegation was that it was in consequence of negligence of the defendants that the motor car was destroyed.
The Acting Attorney General said the defendants denied that there was any contract.
Mr Robinson said the contract was stated in the eighth and ninth paragraphs of the petition. The plaintiff was asked to go back in his capacity of a journalist to report on this ship which had just come out of the dock, because the defendants wanted to know what he had said about the ship's behavior; and he need not instruct the jury on so elementary a point of law as that they took the plaintiff on board with the object a perfectly valid contract was constituted. The law did not require a payment of money to make a contract; they

know that if the plaintiff had merely put two lines in his paper, this was a sufficient consideration to ground an action upon. He therefore said there was a contract—an agreement and a consideration—the two together making a valid contract in law. He would call before a jury Mr. Fraser Smith, who would tell them all about how he came to be invited.

His Lordship said he observed that it was not stated whether it was owing the consideration asked from her husband that Mrs. Fraser Smith was invited.

Mr. Robinson said it was in consideration of his doing a certain thing that Mr. Fr.

Smith and his wife were invited to go on board the vessel. In a conversation between him and Mr Da Costa it was pointed out to him that the vessel was not an improvement to Mr Fraser Smith—'Well, come along and bring your wife with you. This induced him to go on the trip when he was personally not inclined to go. A contract was thus established, and it was in contravention of this contract that the plaintiffs, by the negligence of the defendants' servants, assisted by the defective condition of the safety valves and the engines, sustained the injuries for which they now claimed compensation. He did not

think it was necessary that he should guard any cases to show that a master was liable for the wrongful acts of his servants, and that he was liable, even if these acts were wanton, reckless and wilful in the most gross degree. If the engineer made a reckless mistake on board ship, however mistaken it might be, however imprudent his employers were liable. The act of a servant was the act of the master. Under strict law it was for the defendant to show negligence; the plaintiffs were not strict called upon to give any evidence of it.

The Acting Attorney General said he

Mr. Robinson said the gentlemen of the jury would certainly take the law from his Lordship and not from him (Counsel). He spoke under correction and he would be corrected if

went wrong. What he said was that he was never reckless, imprudent, gross and wilful as it might be, if it was done for the benefit of his master and in his master's employment, in the act of the servant was the act of the master. [Mr Robinson was about to refer to a leading case on this point, when]—His Lordship said it was unnecessary to quote on the subject, as everybody knows that in the case of railway accidents, for example, where a pointsman made a blunder or fell asleep on duty, the employer was held liable.

Mr Robinson then proceeded to say that

he was called upon in the first place to give evidence of negligence, as it has been held that the mere occurrence of an accident was sufficient *prima facie* evidence of negligence to impose on the plaintiffs the onus of rebutting. But although he was called upon to prove that there was a negligence he was going to produce several witnesses who would tell the jury what they saw in connection with this boiler, and which would leave not the slightest doubt in their minds that there was negligence and that of a very gross character. In providence would perhaps be the best way

to describe it, for there was want of force of sight and want of skill of a gross character. He could not call the engineer because himself was unfortunately the victim of his own improvidence. Now, the gentlemen, the jury would ask how this case was going to be attacked by the defence. He thought—although it was rush perhaps to say what they might do—that the other side had pretty clearly intimated this in their answer. To paragraphs eight and nine, where the plaintiff intimated that he went on board to do a certain service to them they in reply, paragraph five admit that the plaintiff was on board, but deny the other allegations.

They deny that they asked him to be their defense. He might tell the jury, however, that in that defense there were two elements. One would be, was it true? He should put Mr. Fraser Smith into the boat and he would tell them that on Mr. La Costa's authority he was asked to go on board and make this report. He (Counsel) thoroughly believed that this was the ground of their defense—that poor Da Costa, who was killed by the explosion, had not authorized him to invite the plaintiffs. On this point it would read to the jury a bit of plain common

His Lordship—You don't mean to say that is an unusual thing in the law (Laughter).

Mr Robinson said he did not mean it was unusual, although it was common sense. The paragraph he referred to in Chitty, 11th edition, p. 198, and dealt with the question of general and special

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Mails.

U. S. MAIL LINE.
PACIFIC MAIL STEAMSHIP
COMPANY.

THROUGH TO NEW YORK, VIA
OVERLAND RAILWAYS, AND THROUGH
AT YOKOHAMA, AND SAN FRANCISCO.

THE U. S. Mail Steamship **CITY OF PEKING** will be despatched for San Francisco, via Yokohama, on SATURDAY, the 21st Proximo, at 3 p.m., taking Passengers and Freight for Japan, the United States, and Europe.

Through Bills of Lading issued for transportation to Yokohama and other Japan Ports, to San Francisco, to Atlantic and Inland Cities of the United States, via Overland Railway to Havana, Trinidad, and Demerara, and to ports in Mexico, Central and South America, by the Company's and connecting Steamers.

Through Passage Tickets granted to England, France, and Germany by all trans-Atlantic lines of Steamers.

First-class Fares granted as follows:—
To San Francisco ... \$200.00
To San Francisco and return ... 350.00
To Liverpool ... 330.00
To London ... 338.00

To other European points at proportionate rates. Special reduced rates granted to Officers of the Army, Navy, Civil Service, and the Imperial Chinese Customs, to be obtained on application.

Passengers who have paid full fare, re-embarking at San Francisco for China or Japan (or vice versa) within one year will be allowed a discount of 10%. This allowance does not apply to through fares from China and Japan to Europe.

Freight will be received on board until 4 p.m. the day previous to sailing. Parcel Packages will be received at the office until 5 p.m., same day; all Parcel Packages should be marked to address in full; value of same is required.

Consular Invoices to accompany Cargo destined to points beyond San Francisco, in the United States, should be sent to the Company's Office in Soledad Envelopes, addressed to the Collector of Customs at San Francisco.

For further information as to Passage and Freight, apply to the Agent of the Company, No. 54, Queen's Road Central.

C. D. HARMAN,

Agent.

Hongkong, December 29, 1887. 2536

CANADIAN PACIFIC LINE.

TAKING CARGO AND PASSENGERS

TO JAPAN, CANADA, THE

UNITED STATES, AND EUROPE,

VIA

THE CANADIAN PACIFIC RAILWAY

AND OTHER CONNECTING

RAILWAY LINES & STEAMERS.

THE British Steamship **ABYSSINIA**, 3,651 Tons Register, Lenz, Commander, will be despatched for VANCOUVER, B.C., via KOBE and YOKOHAMA, on FRIDAY, the 27th January, 1888, at 3 p.m.

To be followed by S.S. **BATAVIA**, on the 28th February, and S.S. **PARTHA**, on the 24th March.

Connection will be made at Yokohama with Steamers from Shanghai and Japan Ports, and at Vancouver with San Francisco by the regular Steamers of the Pacific Coast Steamship Company.

Through Passage Tickets granted to England, France, and Germany by all trans-Atlantic lines of Steamers.

First-class Fares granted as follows:—
To Vancouver Mex. ... \$150.00
To Victoria and San Francisco 175.00
To all common points in Can. 200.00
To San Francisco and return 300.00
To Liverpool ... 300.00
To London ... 308.00

To other European points at proportionate rates. Special reduced rates granted to Officers of the Army, Navy, Civil Service, and the Imperial Chinese and Japanese Customs, to be obtained on application.

Consular Invoices to accompany Cargo destined to points in the United States, should be sent to the Company's Office, addressed to Mr. D. E. BROWN, District Freight Agent, Vancouver, B.C.

Freight will be received on board until 4 p.m. on the 24th January, 1888.

All Parcels must be sent to our Office and should be marked to address in full; and the same will be received by us until 5 p.m. the day previous to sailing.

For information as to Passage or Freight, apply to

ADAMSON, BELL & Co.,

Agents.

Hongkong, December 24, 1887. 2502

Occidental & Oriental Steam-Ship Company.

TAKING CARGO AND PASSENGERS

TO JAPAN, THE UNITED

STATES, MEXICO, CENTRAL AND

SOUTH AMERICA, AND EUROPE,

VIA

THE OVERLAND RAILWAYS,

AND

ATLANTIC & OTHER CONNECTING

STEAMERS.

THE Steamship **SAN PABLO** will be despatched for San Francisco, via Yokohama, on WEDNESDAY, the 1st February, at 3 p.m.

Connection being made at Yokohama with Steamers from Shanghai and Japan Ports.

All Parcel Packages should be marked to address in full; and same will be received at the Company's Office, until 5 p.m. the day previous to sailing.

First-class Fares granted as follows:—
To San Francisco ... \$230.00
To San Francisco and return ... 350.00
To Liverpool ... 330.00
To London ... 338.00

To other European points at proportionate rates. Special reduced rates granted to Officers of the Army, Navy, Civil Service, and the Imperial Chinese Customs, to be obtained on application.

Passengers who have paid full fare, re-embarking at San Francisco for China or Japan (or vice versa) within one year will be allowed a discount of 10%. This allowance does not apply to through fares from China and Japan to Europe.

Freight will be received on board until 4 p.m. the day previous to sailing. Parcel Packages will be received at the office until 5 p.m., same day; all Parcel Packages should be marked to address in full; value of same is required.

Consular Invoices to accompany Cargo destined to points beyond San Francisco, in the United States, should be sent to the Company's Office, addressed to the Collector of Customs at San Francisco.

For further information as to Passage and Freight, apply to the Agent of the Company, No. 54, Queen's Road Central.

C. D. HARMAN,

Agent.

Hongkong, January 10, 1888. 25

Mails.

NORDDEUTSCHER LOYD.
NOTICE.

STEAM FOR
SINGAPORE, COLOMBO, ADEN,
SUÉZ, PORT
SAID, BRINDISI, GENOA,
ANTWERP, BREMEN & HAMBURG.
PORTS IN THE LEVANT, BLACK
SEA & BALTIC PORTS;
ALSO,
LONDON, NEW YORK, BOSTON,
BALTIMORE, NEW ORLEANS,
GALVESTON & SOUTH AMERICAN
PORTS.

THE COMPANY'S STEAMERS WILL CALL
AT SOUTHAMPTON TO LAND PASSENGERS
AND LOGGERS.

N.B.—Cargo can be taken on through Bills
of Lading for the principal places in
RUSSIA.

ON MONDAY, the 23rd day of January,
1888, at 4 p.m., the Company's
Steamship **NECKAR**, Captain SUPREN,
with MAILED PASSENGERS, SPECIE,
and CARGO, will leave this port as above,
calling at Genoa.

Shipping Orders will be granted till
Noon, Cargo will be received on board
until 4 p.m. Specie and Parcels until 3
p.m. on the 22nd January. (Parcels are
not to be sent on board; they must be
left at the Agent's Office). Contents and
Value of Packages are required.

The Steamer Office is at the Company's Office,
and carries a Doctor and Stewardess.

For further Particulars, apply to

MELOERS & Co.,

Agents.

Hongkong, December 27, 1887. 2515

NOTICE.

COMPAGNIE DES MESSAGERIES

MARITIMES.

PAQUEBOTS POSTE FRANÇAIS.

STEAM FOR
SAIGON, SINGAPORE, BATAVIA,
COLOMBO, PONDICHERRY,
MADRAS, CALCUTTA, ADEN, SUÉZ,
PORT SAID.

MEDITERRANEAN AND
BLACK SEA PORTS, ALEXANDRIA,
MARSEILLES AND PORTS
OF BRAZIL, AND LA PLATA;
ALSO,
LONDON, HAVRE, BORDEAUX,
DUNKIRK AND ANTWERP.

ON WEDNESDAY, the 25th January,
1888, at Noon, the Company's Steam-
ship **DIEMER**, Commandant VACHER,
with MAILED PASSENGERS, SPECIE,
and CARGO, will leave this port for the
above places.

Cargo and Specie will be registered for
London as well as for Marseilles, and ac-
cepted by the regular Steamers of the
principal places of Europe.

Shipping Orders will be granted until
Noon.

Cargo will be received on board until 4
p.m. Specie and Parcels until 3 p.m. on
the 24th January, 1888. (Parcels are not
to be sent on board; they must be left
at the Agent's Office).

Contents and value of Packages are re-
quired.

For further particulars, apply at the
Company's Office.

G. DE CHAMPEAUX,

Agent.

Hongkong, January 12, 1888. 72

Intimations.

NOW ON SALE.

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from

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Hongkong, August 20, 1884. 193

WINTER TIME TABLE.

THE KOWLOON FERRY.

STEAM-LANES

MORNING STAR

Runs DAILY as a Ferry Boat between
Peddar's Wharf and Tsim-Tai-Tui at the
following hours:—This Time Table will
take effect from the 17th October, 1887.

WEEK DAYS.

SUNDAYS.

Leave Kowloon, Leave Tsim-Tai-Tui, Leave Kowloon, Leave Tsim-Tai-Tui.

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